

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of  
Local Competition and Broadband  
Reporting

)  
) CC Docket No. 99-301  
)  
)

To: The Commission

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.  
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Date: December 3, 1999

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I. INTRODUCTION

Pursuant to Section 1.429 of the Rules of the Federal Communications Commission ("Commission") and the Notice of Proposed Rule Making ("Notice") in the above-captioned docket,<sup>1/</sup> Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Commission's proposal to impose new reporting requirements on common carriers.

Nextel is a Commercial Mobile Radio Service ("CMRS") provider, offering consumers in over 400 cities digital wide-area Specialized Mobile Radio services. As such, Nextel would be subject to the Commission's proposed reporting requirements and has a significant interest in this proceeding. While not opposed to the proposed reporting requirements, Nextel stresses herein the importance of providing confidential treatment to the proprietary information the Commission is seeking. There is no public interest justification for releasing individual company information to the public and it furthers none of the goals of the data collection process. For

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<sup>1/</sup> Notice Of Proposed Rule Making, CC Docket No 99-301, released October 22, 1999.

these reasons, Nextel respectfully requests that the Commission keep the submitted data confidential.<sup>2/</sup>

## **II. DISCUSSION**

### **A. Wireless Carriers Operate Complex Systems Without Regard For State Boundaries**

The Commission states in the Notice that it proposes to collect carrier subscriber information to further its goals of developing local competition and deploying advanced telecommunications services.<sup>3/</sup> The data, the Commission states, will provide it "timely and reliable information about the pace and extent of developing local competition in different geographic areas. . ."<sup>4/</sup> Moreover, the Commission believes the requested information will provide it the basis for avoiding "one size fits all" regulation of common carriers.

In gathering data from CMRS carriers, the Commission should recognize that wireless carriers operate in significantly varying environments. Some carriers are local in nature, others are regional, encompassing several states in a single service area, and still others are national carriers, operating systems that have no relation to state boundaries. The Commission's CMRS licensing rules ignore state boundaries and thereby encourage the development of multi-state CMRS systems. As a result, CMRS billing systems,

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<sup>2/</sup> If the Commission does not treat the requested CMRS data as confidential and proprietary, Nextel opposes the Commission's proposal to collect the subscriber information.

<sup>3/</sup> Notice at para. 1.

<sup>4/</sup> *Id.* at para. 2.

operating systems and networks can be highly complex and vary from carrier to carrier. Additionally, the purpose of wireless communications is to provide subscribers the ability to make and receive calls while "on the move" whether within a single state or from state-to-state. In collecting data from CMRS carriers on a state-by-state basis, therefore, the Commission should recognize that any conclusions drawn from the data as to state-by-state wireless penetration or usage levels will, due to no reporting failure of the carriers, contain some degree of inaccuracy.<sup>5/</sup>

Additionally, some billing and operating systems may only have the capability of capturing the subscriber count in a particular state on the date that the subscriber count is to be measured, i.e., the system cannot go back to a date in time and determine the number of subscribers on that day. As a result, the Commission should provide adequate time between the date on which the number of subscribers are to be measured and the date on which the carrier must submit the data to the Commission.

**B. Subscriber Information is Proprietary and Confidential, and Should not be Made Publicly Available**

Despite the Commission's tentative conclusion to the contrary,<sup>6/</sup> the subscriber information it is seeking from CMRS

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<sup>5/</sup> For example, a national CMRS carrier may have a subscriber with 200 mobile units operating in 10 different states. However, all 200 of those units may be billed in a single state, e.g., the subscriber's corporate headquarters. If the CMRS carrier counts subscribers on a state-by-state basis using the billing address, the CMRS carrier will have 200 mobile units associated with a state in which they are not actually used.

<sup>6/</sup> Notice at para. 74.

carriers is proprietary, confidential and could cause serious competitive harm if made available to a carrier's competitors. The information, if made public, would allow competitors to, among other things, follow the growth patterns of another CMRS carrier -- particularly if the information is filed on a regular basis -- and adjust their own strategies accordingly. Carriers do not release subscriber counts on a localized basis, typically only announcing a total subscribership number, for these very reasons. If the Commission were to publish this proprietary information, its proposed data collection process would expose carriers' business strategies to their competitors and potentially interfere with the competitive functioning of the marketplace. Thus, the Commission should not release carrier-specific subscriber numbers on a state-by-state basis.

Releasing carrier-specific information, moreover, would provide the Commission no useful information for monitoring the development of local competition and advanced services. For example, whether or not Nextel has 100 or 100,000 customers in a particular state is irrelevant to the potential of wireless services to compete with local exchange carriers ("LECs"). The relevant data is the total number of CMRS subscribers in that state and the extent to which those CMRS services may have the ability to compete with LECs. Thus, to the extent the Commission requires CMRS carriers to submit state-by-state subscriber information, it should only publicly release that information on an industry-wide aggregate basis. This would protect CMRS carriers from the

competitive harms of publicly releasing individual carrier data, while providing the Commission the best information regarding the extent to which wireless may be competing with LECs in the various states.

### III. CONCLUSION

For the reasons discussed herein, Nextel does not oppose the Commission's proposed CMRS reporting requirements if the Commission ensures that the data will be treated confidentially. Moreover, the Commission must recognize that it does not license CMRS providers according to state boundaries and that CMRS carriers do not construct and operate systems according to such boundaries.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert S. Foosaner", written over a horizontal line.

Robert S. Foosaner  
Vice President  
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Date: December 3, 1999

## CERTIFICATE OF SERVICE

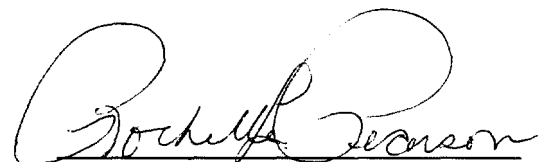
I, Rochelle L. Pearson, hereby certify that on this 3rd day of December 1999, caused a copy of the attached Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

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A handwritten signature in black ink, appearing to read 'Rochelle L. Pearson', written over a horizontal line.

Rochelle L. Pearson